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OGC HAS REVIEWED.

8 May 1951

*orig filed in  
Patent file*

## MEMORANDUM FOR THE FILES

SUBJECT: Patents

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1. [ ] and the undersigned today met Mr. Archie Palmer, Chairman of the Government Patents Board, to discuss certain procedures for implementation of Executive Order 10096.

2. As a result of the meeting of the CIA Patents Board, at which [ ] was present, the question of organized Government assistance to inventors was raised. Since most inventors are men of ideas and not necessarily application, it is apparent that considerable invention is probably lost to the Government simply because adequate development facilities are not available. Dr. Palmer confirmed our suspicions that there were no central sources of funds or facilities for development of invention, and suggested that the only possible solution at the present time was recourse to the particular agency interested. He suggested, among others, the Bureau of Standards and the Office of Naval Research. In return for Government assistance, he felt that the least the Government should receive would be royalty-free license in the invention (presumably, of course, with power to grant licenses for all governmental purposes).

3. A number of questions were raised in the CIA meeting and referred to Dr. Palmer whose answers were generally as follows:

a. What interim protection is provided the inventor pending decisions of the agency in regard to the existence of invention and the degree of governmental interest and ownership?

Since the employee is required by Executive Order 10096 to report invention, he is on notice and under a relationship somewhat analogous to that of master and servant; he must depend upon a governmental determination of his rights. (It is self-evident that, prior to disclosure to the Board, he can protect himself by working journals, diaries and records of invention.)

b. Should the agency decisions required by the Executive Order 10096 normally be made prior to filing of an application?

Yes, this is the anticipated procedure, but the filing should not be delayed pending the agency decision if it is not immediately forthcoming.

c. Can part-time consultants be excepted from the restrictions of Executive Order 10096?

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Yes, this can be achieved by application to the Chairman of the Government Patents Board who can grant such exception under 4(b) of Administrative Order No. 5, of the Government Patents Board, dated 26 April 1951. This is recognition of the difficulties of recruitment if the Executive Order were strictly applied in a somewhat confiscatory fashion. However, Dr. Palmer did indicate that his exception would be confined to consultants hired for a period of less than 90 days.

d. What police action will be taken if inventors fail to report under the Executive Order?

Dr. Palmer made it quite clear that the Government Patents Board would not do any policing and that this problem was one for agency action. He did feel that, as long as the employees were on notice of the existence of the Executive Order, their rights could be fully protected only by a report of invention and a final determination made in accordance with the provisions of Administrative Order No. 5 of the Government Patents Board.

e. Is the factor of security taken into consideration in the procedures of the Government Patents Board?

The answer here is very definitely "yes." Where reports are required by Administrative Order No. 5, and a security factor is present, specific information will not be necessary and the case will be referred to only by number. The various reports required by the Government Patents Board are all subject to consideration of the national security by express definition and, while Dr. Palmer himself is cleared, he does not wish to see the disclosure of any invention which the agency feels should be classified. Disclosures of this type would be marked "Secret" and sealed in the files of the Government Patents Board. There are three categories of invention in addition to the one which is denied to all. These are the ones

1. Open to the public.
2. Open to the Government.
3. Open only to classified employees of the Government.

In this respect there is some control in the Patent Office itself by application of a "Secrecy" order. This is protection only when the application is filed subject to such an order, and if the disclosure warrants complete concealment then it would be best to contain it within the agency, place it under seal with the Government Patents Board, and prohibit disclosure by the inventor.

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f. Do independent contractors fall within the scope of the Executive Order?

No, they are clearly excluded from the phrasing of Section 6(c) of the Government Patents Board Administrative Order No. 5.

g. There is some doubt of the necessity for approval by the Chairman of the Government Patents Board in paragraph 4, cases where the entire right, title and interest in the invention is left in the employee. Dr. Palmer considers this qualified by Section 6(a) and paragraph 4, cases do require the approval of the Chairman.

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As a result of discussion today with Mr. Snyder of ONR, he will provide a smooth copy of the Armed Services Regulations implementing Administrative Order No. 5 when final agreement is reached between Army, Navy and Air Force.

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